

Cory R. Laird  
REEP, BELL, LAIRD & JASPER, P.C.  
2955 Stockyard Road  
Missoula, Montana 59808  
Telephone: (406) 541-4100  
Facsimile: (406) 541-4101  
Email: [laird@westernmontanalaw.com](mailto:laird@westernmontanalaw.com)

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

RACHEL E. WEBSTER, a married	)	Case No.
woman,	)	
	)	
Plaintiff,	)	<b>COMPLAINT AND DEMAND FOR</b>
	)	<b>JURY TRIAL</b>
vs.	)	
	)	
PSYCHIATRIC MEDICAL CARE,	)	
LLC, doing business as SENIOR LIFE	)	
SOLUTIONS, a Tennessee limited	)	
liability company,	)	
	)	
Defendant.	)	

The Plaintiff for cause and action and complaint against the Defendant,  
alleges as follows:

**I. PARTIES**

1. Plaintiff Rachel E. Webster (“Webster”), a married woman, is now  
and was at all times materially hereto a resident of Boundary County, state of

1 Idaho.

2       2. Defendant PSYCHIATRIC MEDICAL CARE, LLC, doing business  
3 as SENIOR LIFE SOLUTIONS (“PMC”), a Tennessee limited liability company,  
4 is now and was at all times materially hereto, authorized to do business and  
5 transacting its business in the city of Libby, county of Lincoln, state of Montana.  
6

7                   **II. JURISDICTION & VENUE**

8       3. This action is pursuant to the Americans with Disabilities Act of 1990  
9 (“ADA”), as amended, 42 U.S.C. § 12101, et seq.; 42 U.S.C. § 1981a, et seq.; the  
10 Fair Credit Reporting Act (“FCRA”).  
11

12       4. Jurisdiction over the ADA claims herein is invoked pursuant to 28  
13 U.S.C. § 1331; 42 U.S.C. § 12117(a).

14       5. Jurisdiction over the FCRA claims herein is invoked pursuant to 15  
15 U.S.C. § 1681p.

16       6. PMC is subject to the ADA because it has more than fifteen (15)  
17 employees. The Equal Employment Opportunity Commission (“EEOC”) issued a  
18 right to sue letter to Webster on July 26, 2017, which was received by Webster’s  
19 counsel on July 26, 2017.  
20

21       7. Punitive damages are sought pursuant to 42 U.S.C. § 12117(a); 42  
22 U.S.C. § 1981a; and 15 U.S.C. § 1681n(a).  
23

24       8. Costs and attorneys’ fees may be awarded pursuant to 42 U.S.C. §

1 12205; 15 U.S.C. § 1681n(a); and 15 U.S.C. § 1681o(b).

2 9. Venue is proper in this Court pursuant to 42 U.S.C. § 12117(a) and 28  
3 U.S.C. § 1391(b) because of the fact that the unlawful discriminatory employment  
4 practices that are the subject of this action occurred in the District of Montana. In  
5 addition, venue is proper because Webster would have continued to work in the  
6 District of Montana but for the unlawful discriminatory employment practices that  
7 are the subject of this action.  
8

9 **III. FACTS**

10 10. Webster has a history and record of Multiple Sclerosis (“MS”), an  
11 unpredictable disabling disease of the central nervous system (brain and spinal  
12 cord), which attacks the protective sheath (myelin) covering the nerve fibers and  
13 causes communication problems between the brain and the rest of the body.  
14

15 11. On December 22, 2015, Webster filed a Charge of Discrimination  
16 with the EEOC against her former employer Boundary Regional Community  
17 Health Center, Inc., doing business as Kaniksu Health Services (“KHS”), for  
18 violations of the Americans with Disability Act.  
19

20 12. On December 30, 2015, the EEOC issued to Webster a Right to Sue  
21 Letter.  
22

23 13. On February 10, 2016, Webster filed a lawsuit in the United States  
24 District Court for the District of Idaho against KHS for violations of the ADA

1 related to her employment and termination from KHS. Webster's lawsuit against  
2 KHS later settled and it was dismissed by the court with prejudice on December  
3 28, 2016.

4  
5 14. In December 2016, Webster started the application process with  
6 PMC's recruiter for a job as a Program Therapist for PMC's program under its  
7 contract with the Cabinet Peaks Medical Center ("CPMC") in Libby, Montana  
8 overseeing all therapeutic services for geriatric outpatients. PMC was hiring  
9 employees to start up its program at CPMC in Libby, Montana.

10  
11 15. On or about January 18, 2017, Webster had a telephonic job interview  
12 with a PMC manager. Later, Webster had other phone interviews with other  
13 members of the PMC leadership team.

14  
15 16. On or about March 14, 2017, Webster had a face-to-face job interview  
16 with CPMC administrators. During the job interview process with PMC and  
17 CPMC, Webster disclosed she was not, at that time, licensed by the state of  
18 Montana as a clinical social worker. Webster indicated to PMC managers she  
19 would apply for licensure in Montana if PMC offered Webster the PMC Program  
20 Therapist job at CPMC in Libby, Montana.

21  
22 17. On or about April 4, 2017, PMC formally offered to Webster in  
23 writing an offer of employment as a Program Therapist at CPMC in Libby,  
24 Montana.

1           18. On or about April 24, 2017, Webster completed and signed an  
2 Applicant Disclosure and Consent for Background Investigation form allowing  
3 PMC to conduct an investigation of her background by obtaining a consumer  
4 report from a Consumer Reporting Agency of PMC's choice, pursuant to the  
5 FCRA.  
6

7           19. On or about May 18, 2017, Webster started the application process for  
8 licensure by the State of Montana as a clinical social worker, and Webster kept  
9 PMC updated on the status of her application for licensure.  
10

11           20. On or about June 5, 2017, Webster started working for PMC at the  
12 CPMC in Libby, Montana.

13           21. During the workweek of June 5-9, 2017, Weber's duties included  
14 completing her immunizations, basic lifesaving certification, and hospital  
15 orientation at CPMC.

16           22. During the workweek of June 12-16, 2017, Webster attended formal  
17 training at PMC's offices in Missouri, during which PMC trained Webster and  
18 other newly hired "teammates" from CPMC in Libby, Montana, PMC's standard  
19 operation procedures, how to fill out treatment plans, and other PMC business  
20 forms.  
21

22           23. Webster's newly hired teammates from CPMC in Libby, Montana  
23 were Registered Nurse Kim Bourgh, and Administrative Assistant Terri Granger.  
24

1           24. During training, no one at PMC indicated to Webster any concerns  
2 that Webster was having difficulty learning the material or that Webster did not  
3 have the skills or abilities to perform her job duties at PMC as a Program  
4 Therapist.

5  
6           25. During training in Missouri, Webster mentioned to Kim Bourgh, RN,  
7 that she has trigeminal neuralgia, a chronic condition that causes facial pain, and  
8 that she takes medications, including Ritalin, to treat her symptoms.

9  
10           26. After PMC training concluded on June 16, 2017, Webster and her  
11 teammates from CPMC had to make a close connecting flight to travel back to  
12 Libby, Montana. While trying to make their connecting flight, Webster fell behind  
13 her teammates as they rushed through the airport. Webster could not keep up with  
14 her teammates' fast pace. Webster walks with a slight limp to her right leg. Terri  
15 Granger asked Webster, "Are you okay?" Webster answered, "Yes, I have a  
16 chronic condition, and this is what I do to deal with it."

17  
18           27. On or about Monday, June 19, 2017, Webster and her teammates met  
19 with the PMC Regional Director Melissa Martin for a presentation at CPMC in  
20 Libby, Montana regarding how to complete patient home assessments.

21           28. Again, no one mentioned to Webster any concerns that Webster was  
22 having difficulty learning the material or that Webster did not have the skills or  
23 abilities to perform her job duties with PMC as a Program Therapist.  
24

1           29. On Wednesday, June 21, 2017, while sitting in her work office at  
2 CPMC, Webster received a phone call from PMC Human Resources Director Jan  
3 Hallmark. Ms. Hallmark conferenced PMC Vice President of Operations Lynsey  
4 Perry into the phone call. With Ms. Perry on the phone conference, Ms. Hallmark  
5 told Webster that PMC was terminating Webster's employment effective  
6 immediately because Webster did not have licensure from the state of Montana,  
7 and Webster did not have the skills or work style to match PMC's program.  
8

9           30. On Friday, June 23, 2017, Webster received an email from the  
10 Montana Business Standards Division Board of Behavioral Health attaching a copy  
11 of her Clinical Social Worker License. On that same day Webster forwarded the  
12 email from the Montana Business Standards Division to Ms. Hallmark attaching a  
13 copy of Webster's Montana license with the message, "I ask that you please  
14 reconsider PMC's decision to terminate my employment." Later that same day,  
15 Ms. Hallmark sent a reply email to Webster, "I appreciate you letting me know  
16 your Montana license came. But in the call you and I had, the bigger issue really is  
17 our work environment. The way our program is designed to work does not match  
18 your skills and style."  
19

20           31. Webster performed no patient visits or patient assessments during her  
21 entire two-week employment at PMC. The only duties PMC assigned Webster  
22 during her employment were orientation, training, and administrative duties while  
23  
24

1 Webster and her teammates prepared to start up PMC's program at CPMC in  
2 Libby, Montana.

3 32. Before and after terminating Webster's employment, PMC did not  
4 provide Webster with: a letter advising Webster of PMC's decision to terminate  
5 Webster; a copy of Webster's background/consumer report; the name and  
6 telephone number of the consumer reporting agency; or letter describing her rights  
7 prescribed by the FCRA.  
8

9 **IV. CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**

11 **Disability Discrimination/Discharge Because Regarded as Disabled**  
12 **(42 U.S.C. § 12101, et seq.; and 42 U.S.C. § 1981a, et seq.)**

13 33. Webster restates and re-alleges by reference Paragraphs 1 through 32  
14 as if fully set forth herein.

15 34. Webster is an individual who has a physical impairment that  
16 substantially limits one or more major life activities of Webster.

17 35. Webster is an individual with a record of physical impairments that  
18 substantially limit one or more major life activities.  
19

20 36. Defendant PMC regarded Webster as having a physical impairment  
21 which limits a major life activity of Webster.

22 37. Webster is qualified to perform the essential functions of a therapist  
23 and counselor with or without reasonable accommodations by PMC.  
24



1           38. PMC intentionally discriminated in violation of the ADA (42 U.S.C. §  
2 12101, et seq.) against Webster by discharging her because PMC regarded Webster  
3 as disabled based on Webster's background/consumer report which showed  
4 Webster had filed suit against her former employer for ADA violations, and based  
5 on reports PMC received from Webster's teammates that Webster had a chronic  
6 medical condition.  
7

8           39. PMC actions were knowing, intentional, and/or in reckless disregard  
9 of Webster's civil rights in violation of the ADA (42 U.S.C. § 12101, et seq.; and  
10 42 U.S.C. § 1981a).  
11

12           40. As a direct and proximate result of PMC's unlawful conduct, Webster  
13 has suffered economic damages, and non-economic damages in the form of severe  
14 emotional distress, embarrassment, humiliation, and mental anguish in an amount  
15 to be proven at trial, pursuant to 42 U.S.C. § 12117, reasonable attorneys' fees,  
16 expert fees, and costs pursuant to 42 U.S.C. § 12205, and punitive damages  
17 pursuant to 42 U.S.C. § 1981a.  
18

19                           **SECOND CAUSE OF ACTION**

20                                   **Retaliation**

21                                   **(42 U.S.C. § 12101, et seq.; and 42 U.S.C. § 1981a, et seq.)**

22           41. Webster restates and re-alleges by reference Paragraphs 1 through 40  
23 as if fully set forth herein.  
24

          42. PMC intentionally retaliated against Webster by discharging her

1 because she filed an ADA charge and filed suit against her former employer for  
2 ADA violations of failure to accommodate her disability and discharge due to  
3 disability.

4 43. PMC's actions were knowing, intentional, and/or in reckless disregard  
5 of Webster's civil rights in violation of the ADA (42 U.S.C. § 12101, et seq.; and  
6 42 U.S.C. § 1981a).

7 44. As a direct and proximate result of PMC's unlawful conduct, Webster  
8 has suffered economic damages, and non-economic damages in the form of severe  
9 emotional distress, embarrassment, humiliation, and mental anguish in an amount  
10 to be proven at trial, pursuant to 42 U.S.C. § 12117, reasonable attorneys' fees,  
11 expert fees, and costs pursuant to 42 U.S.C. § 12205, and punitive damages  
12 pursuant to 42 U.S.C. § 1981a.

13  
14  
15 **THIRD CAUSE OF ACTION**  
16 **Violations of the FCRA**  
17 **(15 U.S.C. §§ 1681, 1681a-1681t)**

18 45. Webster restates and re-alleges by reference Paragraphs 1 through 44  
19 as if fully set forth herein.

20 46. PMC negligently or willfully violated the FCRA by terminating  
21 Webster's employment based on her background/consumer report without advising  
22 Webster that PMC's decision to terminate her employment was based in whole or  
23 in part upon the information contained in her background/consumer report in  
24

1 violation of 15 U.S.C. § 1681m.

2 47. PMC negligently or willfully violated the FCRA by not providing to  
3 Webster the name, address, and telephone number of the consumer reporting  
4 agency that furnished the report on Webster to PMC in violation of 15 U.S.C. §  
5 1681m.  
6

7 48. PMC negligently or willfully violated the FCRA by not providing to  
8 Webster notice of Webster's right to obtain a free copy of her  
9 background/consumer report from the reporting agency who prepared her  
10 background/consumer report and of her right to dispute the consumer reporting  
11 agency's accuracy or completeness of any information in her  
12 background/consumer report in violation of 15 U.S.C. § 1681m.  
13

14 49. As a direct and proximate result of PMC's unlawful conduct, Webster  
15 has suffered actual economic damages, and actual non-economic damages in the  
16 form of severe emotional distress, embarrassment, humiliation, and mental anguish  
17 in an amount to be proven at trial, reasonable attorneys' fees, expert fees, and costs  
18 pursuant to 15 U.S.C. § 1681o, 15 U.S.C. § 1681n, together with punitive damages  
19 pursuant to 15 U.S.C. § 1681n(a).  
20

21 **V. JURY DEMAND**

22 50. Webster by this Complaint and pursuant to FRCP 38, hereby requests  
23 this matter to be heard by a jury.  
24



1 DATED this 28<sup>th</sup> day of August, 2017.

2 REEP, BELL, LAIRD & JASPER, P.C.

3  
4 /s/ Cory R. Laird  
5 Attorneys for Plaintiff  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24